

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 82 of 1989

in

SPECIAL CIVIL APPLICATION No 7447 of 1988

with

LETTERS PATENT APPEAL NO. 130 of 1989

in

SPECIAL CIVIL APPLICATION NO. 6394 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DISTRICT PRIMARY EDUCATION OFFICER

Versus

SUREKHABEN BABABHAI PATEL

Appearance:

LETTERS PATENT APPEAL NO. 82 of 1987

MR KG VAKHARIA for Appellant

MR BA VAISHNAV for Respondent No. 1

NOTICE SERVED for Respondent No. 2

MR BY MANKAD AGP for Respondent No. 7

LETTERS PATENT APPEAL NO. 130 OF 1989

MR KG VAKHARIA for Appellant

MR PV HATHI, for Respondent Nos. 1 to 4, 8 & 9

RESPONDENT NOS. 5, 6, 7, 10, & 11 SERVED

MR BY MANKAD, AGP for Respondent no.12

CORAM : MR.JUSTICE B.C.PATEL and

Date of decision: 16/12/98

ORAL COMMON JUDGEMENT [PER: C.K. BUCH, J]

Letters Patent Appeal No. 82/89 is preferred by the appellant against the judgment and order dated 25.11.1988 passed by learned Single Judge (Coram: A.P.Ravani, J) in Spl.Civil Application No. 7447/88, whereas Letters Patent Appeal is preferred by the appellant against the judgment and order dated 19.10.1988 passed by learned Single Judge (Coram: A.P.Ravani, J) in Special Civil Application No. 6394/88.

Heard learned advocate Mr. Vakharia for the appellant. After going through the orders passed by learned Single Judge in both the matters, Mr. Vakharia has submitted that looking to the dispute between the parties and the period which has lapsed in between, these matters must have rendered infructuous.

Attention of learned advocate Mr. Vakharia was drawn to an affidavit-in-reply filed by respondent nos. 1 to 6 in Letters Patent Appeal No. 82/89 wherein it has been stated specifically that similar question had arisen in case of Kheda District at the time of recruitment of primary teachers and several writ petitions were filed. Numbers of writ petitions are given in para-9 of the said affidavit. It is averred in para-10 thereof that Hon'ble Mr. Justice R.A.Mehta & Hon'ble Mr. Justice S.B. Majmudar while sitting as a Single Judge, have allowed those petitions accepting the version of the petitioners of aforesaid writ petition. Question before us is of identical nature. While allowing writ petitions viz. Spl.C.A. Nos 7447/88 and 6394/88 respectively, learned Single Judge has considered the facts available on record of respective writ petitions and has interpreted the relevant rule of Recruitment. Interpretation is obviously in favour of the petitioners and therefore only, aggrieved respondents (appellants herein) have preferred these Letters Patent Appeals.

According to us, learned Single Judge, by the judgment and orders impugned in these Letters Patent Appeals, permitted the petitioners to appear in examination. In other words, appellant herein was directed to consider them as a candidate having completed 18 years at the time of starting point of recruitment procedure. They may have or may not have been selected, but we are in full agreement with the contention of learned advocate Mr. Vakharia that these Letters Patent Appeals have become infructuous and same should be disposed of accordingly.

In the result, both these Letters Patent Appeals stand disposed of as having become infructuous. No orders

as to costs.

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